

Jeffrey B. Wihtol, OSB No. 78108
Jeff@WihtolLawOffice.com
620 S.W. Main St., Suite 602
Portland, OR 97205-3024
Phone: 503-228-1210
Fax: 503-228-0016
Counsel for Plaintiffs

Robert H. Beatty-Walters, OSB No. 95449
rbw@beattywalterslaw.com
209 S.W. Oak Street, Suite 400
Portland, OR 97204-2739
Phone: 503-473-8088
Fax: 503-473-8089
Counsel for Plaintiff McClellan

David K. Miller, OSB No. 82337
dkm@miller-wagner.com
Miller & Wagner, L.L.P.
2210 N.W. Flanders St.
Portland, OR 97210
Phone: 503-299-6116
Fax: 503-299-6106
Counsel for Plaintiff McClellan

Michael L. Williams, OSB No. 784260
mwilliams@wdolaw.com
Leslie W. O'Leary, OSB No. 990908
loleary@wdolaw.com
Thomas B. Powers, OSB No. 983933
tpowers@wdolaw.com
Williams Love O'Leary & Powers, P.C.
9755 S.W. Barnes Rd., Suite 450
Portland, OR 97225-6681
Phone: 503-295-2924
Fax: 503-295-3720
Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

CHRISTINA MCCLELLAN,

Case No. 07-CV-1309-AA

Plaintiff,

Page 1 - PLAINTIFF'S EMERGENCY MOTION FOR PROTECTIVE
ORDERS TO LIMIT FURTHER DISCOVERY OF
FREDERICK A. MATSEN, III, M.D. AND TO QUASH
SUBPOENAS

LAW OFFICES OF JEFFREY B. WIHTOL
Attorneys at Law
620 S.W. Main St., Suite 602
Portland, OR 97205-3024
Phone: (503) 228-1210 Fax: (503) 228-0016

v.

I-FLOW CORPORATION, a Delaware corporation; DJO, L.L.C., a Delaware corporation; and DJO INCORPORATED, a Delaware corporation, and PACIFIC MEDICAL, INC., a California corporation,

Defendants.

PLAINTIFF'S EMERGENCY MOTION
FOR PROTECTIVE ORDERS TO LIMIT
FURTHER DISCOVERY OF
FREDERICK A. MATSEN, III, M.D.
AND TO QUASH SUBPOENAS

(Oral Argument Requested)

GORDON ADDIS,

Plaintiff,

v.

MCKINLEY MEDICAL, L.L.C., a Colorado corporation; MOOG, INC., a New York corporation; DJO INCORPORATED, a Delaware corporation; DJO, L.L.C., a Delaware corporation; PACIFIC MEDICAL, INC., a California corporation, CURLIN MEDICAL, L.L.C., a California corporation, and CURLIN MEDICAL, INC., a Delaware corporation,

Defendants.

Case No. 07-CV-1318-AA

L.R. 7.1 CERTIFICATION

Counsel for plaintiff certifies that a good faith effort has been made through personal and telephone conferences to resolve the dispute that is the subject of this motion, and has been unable to do so.

**1. MOTION TO TERMINATE OR LIMIT THE
DEPOSITION OF DR. FREDERICK MATSEN**

Plaintiff moves for an order terminating the “general causation” deposition of Dr. Frederick Matsen.¹ Alternatively, plaintiff moves for an order limiting defendants to no more than an additional 30 minutes of deposition questioning of Dr. Matsen.

**2. MOTION TO RELIEVE DR. MATSEN, HIS RESEARCH TEAM,
AND THE UNIVERSITY OF WASHINGTON OF THE OBLIGATION
OF FURTHER PRODUCTION OF DISCOVERY UNTIL 30 DAYS
PRIOR TO COMMENCEMENT OF TRIAL**

Plaintiff moves for an Order protecting Dr. Matsen, his chondrolysis research team, and the University of Washington from further undue burden, expense, and harassment by relieving them of any obligation of further production of discovery regarding their chondrolysis research and Dr. Matsen’s role as an expert witness in certain pain pump cases until 30 days prior to commencement of any trial in which Dr. Matsen has been designated as an expert.

**3. MOTION TO QUASH SUBPOENAS ISSUED BY BREG, INC. TO
FREDERICK A. MATSEN, III, M.D., CHARLES L. BECK, M.D.,
THE JOURNAL OF BONE AND JOINT SURGERY, AND THE
AMERICAN JOURNAL OF SPORTS MEDICINE**

Plaintiff moves for an Order quashing the Subpoenas issued by Breg, Inc. to Frederick Matsen-University of Washington Medical Center, *Journal of Bone and Joint Surgery*, The *American Journal of Sports Medicine*, and Charles L. Beck to avoid undue burden and expense.

¹ The parties have jointly characterized the discovery depositions of Dr. Matsen on all topics other than the specific cause of plaintiff’s glenohumeral chondrolysis as the “general causation” deposition.

Motions 1 and 2 are based upon: Fed. R. Civ. P. 26(b)(2)(C) and 26(c)(1); the Memorandum In Support Of Plaintiff's Motion For Protective Orders To Limit Further Discovery Of Frederick A. Matsen, III, M.D.; and, the Declaration Of Jeffrey B. Wihtol In Support Of Plaintiff's Motion For Protective Orders To Limit Further Discovery Of Frederick A. Matsen, III, M.D.

Motion 3 is based upon: Fed. R. Civ. P. 45(c)(1) and (3); the Memorandum In Support Of Plaintiff's Motion For Protective Orders To Limit Further Discovery Of Frederick A. Matsen, III, M.D. And To Quash Subpoenas; and the Declaration Of Jeffrey B. Wihtol In Support Of Plaintiff's Motion For Protective Orders To Limit Further Discovery Of Frederick A. Matsen, III, M.D. And To Quash Subpoenas.

Dated this 15th day of March, 2010.

Respectfully submitted,

s/ Jeffrey B. Wihtol

Jeffrey B. Wihtol, OSB #78108
Jeff@WihtolLawOffice.com
620 S.W. Main Street, Suite 602
Portland, OR 97205-3024
Telephone: 503-228-1210
Facsimile: 503-228-0016
Of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing PLAINTIFF'S MOTION FOR PROTECTIVE ORDERS TO LIMIT FURTHER DISCOVERY OF FREDERICK A. MATSEN, III, M.D. was served upon the following named person(s):

Eric Neiman, Esq.
Heather Van Meter, Esq.
Williams, Kastner & Gibbs
888 S.W. 5th Avenue, Suite 600
Portland, OR 97204

eneiman@williamskastner.com
hvanmeter@williamskastner.com

Jeffrey Singer, Esq.
Paul E. Wojcicki, Esq.
Mark Crane, Esq.
Segal McCambridge Singer & Mahoney
233 S. Wacker Drive, Suite 5500
Chicago, IL 60606
Of Attorneys for I-Flow Corporation

jsinger@smsm.com
pwojcicki@smsm.com
mcrane@smsm.com

Paul Silver, Esq.
Jay W. Beattie, Esq.
Lindsay, Hart, Neil & Weigler, LLP
1300 S.W. Fifth Avenue, Suite 3400
Portland, OR 97201-5640

psilver@lindsayhart.com
jbeattie@lindsayhart.com

Pamela B. Goldsmith, Esq.
Frederick H. Fern, Esq.
Judi Abbott Curry
Konrad F. Payne
Harris Beach PLLC
100 Wall Street
New York, NY 10005

pgoldsmith@harrisbeach.com
ffern@harrisbeach.com
jcurry@harrisbeach.com
kpayne@harrisbeach.com
painpumplit@harrisbeach.com

*Of Attorneys for Defendants McKinley Medical, L.L.C.,
Moog, Inc., Curlin Medical, L.L.C., and Curlin Medical, Inc.*

Wm. Kelly Olson, Esq.
Scott J. Meyer, Esq.
Mitchell Lang & Smith
101 S.W. Main Street, Suite 2000
Portland, OR 97204

kolson@mls-law.com
smeyer@mls-law.com

Of Attorneys for Donjoy Corporation, DJ Orthopedic Corporation, DJO Corporation, and Pacific Medical, Inc.

Sara Miller, Esq.
Roger G. Perkins, Esq.
Morris Polich & Purdy, L.L.P.
501 West Broadway #500
San Diego, CA 92101

smiller@mpplaw.com
rperkins@mpplaw.com

Claudio E. Molteni, Esq.
Patrick Lysaught, Esq.
Baker, Sterchi, Cowden & Rice, LLC
2400 Pershing, Suite 500
Kansas City, MO 64108

molteni@bscr-law.com
lysought@bscr-law.com

Of Attorneys for Donjoy Corporation, DJ Orthopedic Corporation, and DJO Corporation

John P. Hayes, Esq.
Forsberg & Umlauf, P.S.
901 Fifth Avenue, Suite 1400
Seattle, WA 98164-2047

jhayes@forsberg-umlauf.com

Of Attorneys for Pacific Medical, Inc.

Robert H. Beatty-Walters, Esq.
209 S.W. Oak St., Suite 400
Portland, OR 97204-2739

rbw@beattywalterslaw.com

David K. Miller, Esq.
Miller & Wagner, L.L.P.
2210 N.W. Flanders St.
Portland, OR 97210

dkm@miller-wagner.com

Michael L. Williams, Esq.
Leslie W. O'Leary, Esq.
Thomas B. Powers, Esq.
Williams Love O'Leary & Powers, P.C.
9755 S.W. Barnes Rd., Suite 450
Portland, OR 97225-6681
Of Attorneys for Plaintiff

mwilliams@wdolaw.com
loleary@wdolaw.com
tpowers@wdolaw.com

on the date indicated below by means of electronic filing notification.

Dated: March 15, 2010.

s/ Jeffrey B. Wihtol
JEFFREY B. WIHTOL, OSB No. 78108
Jeff@WihtolLawOffice.com
Attorney for Plaintiffs